

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Plaintiff,

v.

RODRIGO KEDE DE FREITAS LIMA,

Defendant.

20 Civ. 4573

**[PROPOSED] ORDER TO SHOW
CAUSE FOR AN ORDER FOR A
PRELIMINARY INJUNCTION AND
TEMPORARY RESTRAINING
ORDER**

Upon the Summons and Complaint of Plaintiff International Business Machines Corporation (“IBM”), the Declaration of Randy Walker, executed on June 15, 2020, the Declaration of Pietro J. Signoracci, executed on June 17, 2020, and the accompanying Memorandum of Law in Support of Plaintiff’s Application for a Temporary Restraining Order and Preliminary Injunction, and good and sufficient reason appearing to me therefor, it is hereby

ORDERED that Defendant Rodrigo Kede de Freitas Lima or his counsel show cause at a hearing to be held in this Court before the Honorable _____, United States District Judge, in Courtroom _____, United States Courthouse, 500 Pearl Street, New York, New York, on _____, 2020 at _____ .m., or as soon thereafter as counsel may be heard, why the Court should not enter an order for a preliminary injunction pursuant to Rule 65(a) of the Federal Rules of Civil Procedure and the Court’s inherent powers, pending final determination of this action:

(a) enjoining and restraining Defendant Lima from commencing employment with Microsoft Corporation (“Microsoft”), or otherwise associating with Microsoft prior to May 20, 2021;

(b) enjoining Defendant Lima, prior to May 20, 2021, from soliciting for competitive business purposes any customer of IBM with which Defendant Lima was involved as part of his job responsibilities at IBM during the last twelve months of his employment at IBM;

(c) enjoining Defendant Lima, prior to May 20, 2022, from directly or indirectly hiring, soliciting, or making an offer to any employee of IBM to be employed or perform services outside IBM;

(d) enjoining Defendant Lima from using, disclosing, or transmitting for any purpose records, documents, or information containing any confidential or proprietary information of IBM; and

(e) ordering such further relief the Court deems just and proper;

AND it being shown by the above-referenced declarations and memorandum of law that Plaintiff will suffer immediate and irreparable harm unless, pending the hearing of the motion brought on by this Order to Show Cause, a temporary restraining order be in effect, providing the relief requested by Plaintiff on this motion for a preliminary injunction, pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, it is hereby

ORDERED that Defendant Rodrigo Kede de Freitas Lima is temporarily ENJOINED AND RESTRAINED, until the hearing and determination of Plaintiff’s motion for a preliminary injunction, from: (i) working at, announcing any prospective employment or association with, or providing any services for, Microsoft; (ii) soliciting any customer of

IBM with which Defendant Lima was involved as part of his job responsibilities at IBM during the last year of his employment at IBM; (iii) contacting any current employees of IBM for the purpose of influencing them to leave IBM; and (iv) retaining, using, or disclosing IBM confidential or proprietary information; and it is further

ORDERED that security in the sum of _____ shall be posted by Plaintiff on or before _____; and it is further

ORDERED that Plaintiff shall effect personal delivery of a copy of this order and supporting papers, by hand delivery service and email to Defendant or Defendant's counsel, no later than _____ p.m. on _____, 2020, which shall be deemed good and sufficient service and notice thereof; and it is further

ORDERED that Defendant shall file with the Court and serve any responsive papers by overnight delivery and email on Plaintiff's counsel, Robert A. Atkins, Esq., Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019-6064, ratkins@paulweiss.com, on or before _____ .m. on _____, 2020 and that Plaintiff shall file with the Court and serve any reply papers by overnight delivery and email on Defendant or Defendant's counsel, on or before _____ .m. on _____, 2020.

SO ORDERED:

U.S.D.J.